

Message

From: Papachristos, George (NFK) [/O=COMMONWEALTH OF MASSACHUSETTS/OU=MASSMAIL-01/CN=RECIPIENTS/CN=GEORGE.PAPACHRISTOS]
Sent: 5/27/2011 4:27:40 PM
To: Khan, Annie (DPH) [/O=COMMONWEALTH OF MASSACHUSETTS/OU=MassMail-01/cn=Recipients/cn=Annie.Khan]
Subject: RE: Substitute Drug Chemist Questions (Predicate Questions)

Wow, Thanks Annie!!!!!!!!!!!!!!!!!!!!!!

George N. Papachristos

Assistant District Attorney
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From: Khan, Annie (DPH)
Sent: Friday, May 27, 2011 12:14 PM
To: Papachristos, George (NFK)
Subject: RE: Substitute Drug Chemist Questions (Predicate Questions)

Hey George!!!

See attachment for Predicate Questions. These questions can be altered depending on chemist's role.

As long as the Judge and defense counsel has no objections, then following scenarios should be fine.

1. If the custodial chemist is the only one available, they can testify to weight and the preliminary tests and basically state that substance was presumptively positive for a narcotic. As for the confirmatory portion, if the custodial chemist is trained in use and interpretation of the confirmatory instrument then they may be able to (?) testify to the findings. They can state that the data is reviewable and can be interpreted by a scientist trained in GC/MS or IR. (I would recommend having the chemist defining reviewable data)
2. If the confirmatory chemist is the only one available, they can review the custodial chemist's notes and state that they followed the lab policies and procedures at that time. Then they can testify to their portion of the analysis and their findings. The only concern is if weight or chain of custody is an issue.
3. If the chemist has retired or left the Lab to seek other opportunities, then we may be able to substitute a chemist to testify on their behalf. They will review the prelim and confirmatory data and state their opinion to the findings. But stress that the chemist followed the policies and procedures of the lab.

I have testified in all three scenarios and there were some challenging questions but usually I can get the point across. I would recommend that the ADA contact the chemist and discuss the case prior to trial. This way the ADA can figure out the comfort level & confidence of the chemist testifying esp. in the latter scenario, since the original chemist is unavailable.

Hope this helps. If you need further assistance, please feel free to contact me.

Thanks.

Annie
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Chemical & Biological Terrorism
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From: Papachristos, George (NFK)
Sent: Thursday, May 26, 2011 6:47 PM
To: Khan, Annie (DPH)
Subject: FW: Substitute Drug Chemist Questions

Hey boss,

I was wondering if you could help my buddy below, ADA Bosse, on predicate questions with substitute chemist, if you have such? I know I have the ones you already sent me before, but I wasn't sure if you had a set for these.

Thank you Annie!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!

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From: Bosse, John (BER)
Sent: Thursday, May 26, 2011 6:42 PM
To: Papachristos, George (NFK); Sholds, Thomas (EAS); Burke, Matt (EAS); Bucci, Jeremy (NWD); Groff, Michelle (CPI); MacLellan, Craig (SUF); Sears, Nathaniel (EAS)
Subject: Substitute Drug Chemist Questions

Hi,

Wondering if any of you have tried a case with a substitute drug chemist? If so, would you mind sending me the predicate questions, if you still have them saved? Hope all is well with all of you and good to see the Red Sox are starting to turn things around!!!!

John Bossé